

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

GILBERTO PEREIRA BRITO, FLORENTIN
AVILA LUCAS, and JACKY CELICOURT,
individually and on behalf of all those similarly
situated,

Plaintiff-Petitioners,

v.

WILLIAM BARR, et al.,

Defendant-Respondents.

Case No. 19-11314-PBS

**MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, PRELIMINARY INJUNCTION**

Petitioners respectfully move for class-wide summary judgment. As argued in the accompanying Memorandum of Law, entry of summary judgment is appropriate now because the material facts in this matter are not genuinely disputed, and petitioners are entitled to class-wide judgment as a matter of law, including based upon the prior decisions of this Court and the growing nationwide consensus that the government's immigration bond hearing procedures are unlawful.

Specifically, as set forth in the accompanying proposed order, petitioners ask that this Court declare, with respect to the class, that individuals detained pursuant to 8 U.S.C. § 1226(a) are entitled to a bond hearing at which the government bears the burden to justify continued detention by proving by clear and convincing evidence that the detainee is a danger to others or a flight risk, and, even if he or she is, that no condition or combination of conditions will

reasonably assure the detainee's future appearance and the safety of the community, and which includes consideration of the detainee's ability to pay in selecting the amount of any bond and suitability for release on alternative conditions of supervision. Petitioners are also seeking a corresponding injunction requiring, among other things, that the government provide such hearings and also file and produce certain information necessary for implementation of the remedy and monitoring compliance.

For the reasons stated in the Petition and the accompanying Memorandum of Law, petitioners respectfully ask the Court (i) to enter summary judgment on their behalf, and on behalf of the members of the Pre-Hearing Class and the Post-Hearing Class, and (ii) to issue the declaratory and permanent injunctive relief discussed in the accompanying Memorandum of Law, and in the proposed order submitted herewith. In the alternative, if the Court is not currently in a position to enter summary judgment, petitioners move for entry of a preliminary injunction encompassing the requested relief pending final resolution of this case.

Defendants oppose this motion.

Respectfully submitted,

GILBERTO PEREIRA BRITO, FLORENTIN AVILA LUCAS, and JACKY CELICOURT, individually and on behalf of all those similarly situated,

By their attorneys,

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Dated: August 29, 2019

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), Plaintiff-Petitioners' counsel certifies that counsel conferred with counsel for the Defendants regarding this motion, and all oppose Plaintiff-Petitioners' Motion for Summary Judgment or, in the Alternative, Preliminary Injunction.

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2019, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Susan Finegan
Susan M. Finegan